



## STANDARD RETAIL PRODUCT LICENSE AGREEMENT

This Agreement (“Agreement”) is entered into by and between «Company», a(n) \_\_\_\_\_ organized under the laws of the State of «State», having its principal place of business at «Address» «City», «State» «Zip Code» (“Licensee”), and **Collegiate Licensing Company LLC**, a limited liability company organized under the laws of the State of Georgia, having its principal place of business at 1075 Peachtree Street, Suite 3300, Atlanta, Georgia 30309 (“CLC”). Licensee and CLC are referred to herein collectively as the “Parties” and sometimes individually as a “Party”.

**WHEREAS**, CLC represents the licensing interests of the institutions listed in **Appendix “A”** of this Agreement, and has the exclusive rights, as agent, to license for commercial purposes the use of certain indicia of such institutions, including but not limited to the trademarks set forth in **Appendix “B”** (“Licensed Indicia”); and

**WHEREAS**, Licensee desires to be authorized, for the limited purposes stated herein, to utilize the Licensed Indicia on the products listed in **Appendix “C&D”** (“Licensed Articles”), and CLC is willing, subject to certain conditions, to grant such a license; and

**NOW, THEREFORE**, in consideration of the forgoing recitals, the Parties’ mutual promises, covenants, conditions, and the limitations contained herein, and other good and valuable consideration the receipt and sufficiency of which are acknowledged, the Parties hereby agree as follows:

### 1. DEFINITIONS.

(a) “*Advertising Materials*” means any print, broadcast, and online advertisements and promotional literature, including, without limitation, social media networking sites, and television and radio commercials promoting Licensed Articles and containing the Licensed Indicia.

(b) “*Authorized Brands*” means any additional brand names or labels Licensee may use in association with the Licensed Articles.

(c) “*Code of Conduct*” means those certain labor code standards and verification / monitoring procedures set forth in **Section 14** hereof regarding the design, development, sourcing, use, manufacture, production, sale, license, distribution, or other commercialization of the Licensed Articles, as amended or augmented by the Institution-Specific Code Requirements set forth on **Appendix “E”**, all as may be amended from time to time by the applicable Collegiate Institution(s).

(d) “*Collegiate Institutions*” means the collegiate institutions listed in **Appendix “A”** attached hereto and by this reference incorporated herein, including any additions, modifications, or deletions that may be made from time to time by CLC.

(e) “*Confidential Information*” means confidential or proprietary information, data or know-how, whether provided in written, oral, visual or other form that is: (a) disclosed, by any means, by one Party to the other Party or (b) developed by either Party, in each case, in connection with this Agreement or the Licensed Articles, regardless of whether such information, data or know-how is marked or otherwise identified as “proprietary” or “confidential” at the time of disclosure or development. Confidential Information includes the terms, conditions, and obligations contained in this Agreement as well as any statement, report, or payment provided by Licensee hereunder. Confidential Information shall

not include any such information that, as documented by contemporaneous written records: (i) is already known to the receiving Party (other than under an obligation or duty of confidentiality) at the time of disclosure; (ii) is or becomes generally available to the public other than through any act or omission of the receiving Party; (iii) is disclosed to the receiving Party (other than under an obligation or duty of confidentiality) by a third-party who had no separate nondisclosure obligation in respect of such information; or (iv) is independently discovered or developed by or on behalf of the receiving Party without reference to or use of the Confidential Information of the disclosing Party.

(f) “*Distribution Channels*” means the channels of trade in which Licensee may advertise, promote, distribute, and sell the Licensed Articles in the Territory. The Distribution Channels authorized herein are indicated on **Appendix “C&D”** located on Brand Manager 360 under “Resources”, which is incorporated herein by this reference, and which may also identify Distribution Channels that are not authorized in this Agreement. Licensee shall not advertise, promote, distribute, or sell Licensed Articles to any third-party that Licensee knows or should reasonably know intends or is likely to advertise, promote, redistribute or resell Licensed Articles outside the authorized Distribution Channels.

(g) “*Distributor*” means any party, including but not limited to another licensee or Manufacturer, whose business includes purchasing manufactured products from any other third-party and, without changing the products, shipping such products, whether directly, indirectly (e.g. drop shipping), or otherwise, to any customer other than the end-consumer.

(h) “*Effective Date*” means date this Agreement is last signed by the Parties below.

(i) “*Fair Labor Association*” or “*FLA*” is a collaborative effort of socially responsible companies, colleges and universities, and civil society organizations to improve working conditions in factories around the world.

(j) “*Final Statement*” means a written statement showing the number and description of all Licensed Articles then on hand with or in process by or on behalf of Licensee.

(k) “*Indemnified Parties*” means, collectively, CLC, the Collegiate Institutions, and their respective officers, members, directors, agents, and employees.

(l) “*Institution-Specific Code Requirements*” means particular code of conduct requirements established by certain Collegiate Institutions in addition to or in lieu of certain requirements of the Code of Conduct as set forth on **Appendix “E”** (comprised of the Collegiate Institutions List spreadsheet and any attached requirements from Institutions) attached hereto and by this reference made a part hereof, all as may be amended from time to time by the applicable Collegiate Institution(s).

(m) “*Licensed Article Closeouts*” means Licensed Articles that are priced at least thirty percent (30%) lower than the regular Net Sales price for such particular Licensed Article.

(n) “*Licensed Articles*” means the products that contain the Licensed Indicia and described in **Appendix “C&D”**.

(o) “*Licensed Indicia*” means the names, symbols, designs, and colors of the Collegiate Institutions, including without limitation, the trademarks, service marks, designs, team names, uniform styles, school-owned stadiums, athletic facilities, and landmark campus buildings, field-level artwork and signage, nicknames of the Collegiate Institutions or their teams, abbreviations, city/state names in the appropriate context, slogans, logographics, mascots, seals and other symbols associated with or referring to the respective Collegiate Institutions. Licensed Indicia consists of those set forth in **Appendix**

“**B**”, which appendix is attached hereto and by this reference incorporated herein, all modifications of the Licensed Indicia approved for use by the Collegiate Institutions through CLC, and all newly adopted indicia. Any such modification or newly adopted indicia shall be deemed to be additions to the Licensed Indicia in **Appendix “B”** and shall be subject to the terms and conditions of the Agreement.

(p) “*Manufacturer*” means any entity (or its agents, representatives, or designees) that is engaged in the manufacture, production, preparation, propagation, processing, packaging, repackaging, labeling, sale, distribution, supplying, and/or sourcing of a Licensed Article.

(q) “*Minimum Guarantee*” means, if applicable and if stated on a separate addendum, the annual minimum amount of Royalties (as defined herein) that Licensee shall pay to CLC on behalf of the Collegiate Institutions for each year of the Term (as defined herein), including all renewal periods.

(r) “*Net Sales*” means the total gross sales of all Licensed Articles distributed or sold at the greater of: (i) Licensee’s actual invoiced selling price or (ii) Licensee’s regular domestic wholesale warehouse price (e.g. the standard price at which Licensee would normally sell such Licensed Articles to the trade), in each case including the royalty amount (whether included in the price, as a separate invoice line item, or otherwise), less lawful quantity trade discounts actually allowed and taken as such by customers and shown on the invoice, less any credits for returns actually made as supported by credit memoranda issued to customers, less sales taxes, and less transportation charges on Licensed Articles shipped by Licensee from its facilities to the purchaser (but not transportation charges on Licensed Articles shipped by or from a Manufacturer, Distributor, or other third-party). For purposes of the Related Retail/Direct Distribution Channel described in **Appendix “C&D”**, the Licensee’s invoiced selling price is the final invoice price charged the end consumer (i.e. after sold by the wholesaler, reseller, retailer, or Distributor). For purposes of products used as Premiums (as defined herein), Net Sales shall be calculated based on the greater of: (i) Licensee’s regular domestic wholesale warehouse price for such products, or if such regular domestic wholesale warehouse price is unknown, then (ii) the price determined in CLC’s reasonable discretion based on an evaluation of comparable prices charged the trade for similar products. There shall be no other deductions allowed including, without limitation, deductions for direct or indirect costs (e.g. tariffs) incurred in the manufacturing, distributing, selling, importing or advertising (including cooperative and other advertising and promotional allowances) of the Licensed Articles, nor shall any deductions be allowed for non-collected or uncollectible accounts, commissions, cash or early payment discounts, closeout sales, distress sales, sales to employees, or any other costs.

(s) “*NCAA*” means the National Collegiate Athletic Association.

(t) “*Official Label*” means the “*Officially Licensed Collegiate Products*” tag or label, in the form prescribed by CLC, to be affixed to each Licensed Article, its Packaging and Advertising Materials prior to advertising, distribution, or sale of any Licensed Article.

(u) “*Packaging*” means the use of the Licensed Indicia on any Licensed Articles, including labels, containers, packages, tags, and displays.

(v) “*Premiums*” means any products, including Licensed Articles, bearing any Licensed Indicia featured alone or in combination with the indicia of any third-party, that Licensee sells or gives away for the purposes of: (i) promoting, publicizing, or increasing the sale of its own products or services; or (ii) promoting, publicizing, or increasing the sale of the products or services of any third-party. Premiums include, without limitation, combination sales, incentives for sales force, and trade or consumer promotions such as sweepstakes.

(w) “*Retail Sales*” means the sale of Licensed Articles, alone or in combination with other goods as authorized herein, to retail outlets (directly or through unrelated Distributors through arm’s length transactions), and through mail order, catalogs, online stores or online download, or other approved methods of distribution, where or by which the Licensed Articles are ultimately sold to end consumers.

(x) “*Royalty*”, “*Royalties*” and “*Royalty Payments*” means the royalty payments payable to CLC, on behalf of the Collegiate Institutions, by Licensee or its affiliated or subsidiary entities at the rates set forth for each such Collegiate Institution on **Appendix “C&D”** based on Licensee’s Net Sales from Licensed Products and Premiums sold or distributed by Licensee or its Affiliates during the Term and any renewal periods, and during any period allowed pursuant to **Section 17**.

(y) “*Student-Athlete*” means any person currently enrolled or attending a collegiate institution located in the Territory who participates or who has participated in athletics as a member of one of more of such collegiate institution’s athletic teams.

(z) “*Term*” means, for the first contract year, the period of time commencing on the Effective Date, continuing through the first calendar quarter (i.e. January 1<sup>st</sup>, April 1<sup>st</sup>, July 1<sup>st</sup>, or October 1<sup>st</sup>) immediately following the Effective Date, and ending at 11:59 pm Eastern Standard Time on the annual anniversary of the first day of such first calendar quarter. In the event that the Agreement is extended or renewed, each subsequent contract year shall consist of the twelve (12) month period commencing on the annual anniversary of the first day of such first calendar quarter.

(aa) “*Territory*” means the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and United States military bases abroad. Notwithstanding the foregoing, to the extent related to the sale, distribution, or other commercialization of Licensed Articles bearing the Licensed Indicia of the University of Toronto, the term “*Territory*” shall also mean Canada. Licensee shall not advertise, distribute or sell Licensed Articles outside the Territory, or to any person or entity that Licensee knows or should reasonably know intends or is likely to advertise, redistribute or resell Licensed Articles outside the Territory.

(bb) “*Worker Rights Consortium*” or “*WRC*” is an independent labor rights monitoring organization that conducts investigations of working conditions in factories on behalf of its affiliate collegiate institutions.

(cc) “*Works*” means any original designs, artwork or other compilations created by Licensee pursuant to this Agreement that contain the Licensed Indicia.

## 2. GRANT OF LICENSE.

(a) Grant. Upon the execution of this Agreement, and subject to its terms and conditions, the Collegiate Institutions listed in **Appendix “A”**, through CLC, grant Licensee the nonexclusive, revocable, nontransferable rights to manufacture, advertise, distribute, and sell the Licensed Articles listed in **Appendix “C&D”**, containing the Licensed Indicia referenced in **Appendix “B”**, under the applicable Authorized Brands and in the Distribution Channels indicated in **Appendix “C&D”**, in the Territory, during the Term. Licensee shall exercise such rights in accordance with all CLC and Collegiate Institution guidelines, policies and requirements provided to Licensee, which shall be deemed part of the Agreement.

(b) Limitation on License.

(i) Limited Use. Licensee shall not use the Licensed Indicia for any purpose other than upon or in connection with the manufacture, development, sale, distribution, promotion, and advertising of the approved Licensed Articles set forth in **Appendix “C&D”**. Any proposed additions or changes in the design or style of the Licensed Articles shall be submitted to CLC in writing or via Brand Manager 360 and samples thereof shall be submitted to Institution through CLC for prior written approval. Under no circumstances shall Licensee sell, distribute, promote, advertise or otherwise use any unapproved products or designs that contain or are derived from the Licensed Indicia.

(ii) Authorized Distribution Channels. Licensee shall advertise, promote, distribute, and sell Licensed Articles only in the authorized Distribution Channels set forth in **Appendix “C&D”**. CLC and the respective Collegiate Institutions shall have the right to determine whether a particular retail account falls within a particular Distribution Channel. Unless specified in **Appendix “C&D”**, Licensee shall have no right to advertise, distribute, or sell Licensed Articles directly to consumers.

(iii) Authorized Distributors. Licensee must receive CLC’s prior written authorization to use any Distributor of any Licensed Article. Licensee will remain primarily obligated to CLC and the Collegiate Institutions under this Agreement notwithstanding CLC’s approval of a Distributor, and Licensee shall ensure that any and all approved Distributors comply with all applicable terms and conditions of the Agreement including, without limitation, providing each such Distributor with instructions relating to the distribution of the Licensed Articles and the Distribution Channels for the Licensed Articles. If an approved Distributor engages in conduct that would be a default under the Agreement if Licensee engaged in such conduct, Licensee shall be deemed in default and shall fully cooperate with CLC to ensure that such conduct promptly ceases and such default is remedied.

(iv) Authorized Brands. Licensee shall not use any brand names other than Authorized Brands in connection with the manufacture, development, sale, distribution, promotion, and advertising of the Licensed Articles. CLC and the Collegiate Institutions shall have the right to remove or change any of the Authorized Brands during the Term.

(v) Authorized Manufacturer. In the event that Licensee desires to have a Manufacturer produce one or more Licensed Articles, or any component thereof, Licensee shall provide CLC with the name, address, telephone number, email address, and principal contact of the proposed Manufacturer. The Manufacturer must execute an authorized manufacturer’s or supplier’s agreement provided by CLC prior to use of the Licensed Indicia. In addition, Licensee shall take the steps necessary to ensure the following: (1) Manufacturer shall produce the Licensed Articles only as and when directed by Licensee, which remains fully responsible for ensuring that the Licensed Articles are manufactured in accordance with the terms herein including approval, Code of Conduct requirements and royalty payment; (2) Manufacturer shall not advertise, distribute, or sell Licensed Articles to any person or entity other than Licensee; and (3) Manufacturer shall not delegate in any manner whatsoever its obligations with respect to the Licensed Articles. Licensee’s failure to comply with this Section may result in termination of this Agreement and/or confiscation and seizure of Licensed Articles. CLC and the individual Collegiate Institutions hereby reserve the right to terminate the engagement of any Manufacturer at any time. Licensee shall not provide any method of application of Licensed Indicia for any third-party unless CLC authorizes Licensee to provide said application under the terms of an authorized manufacturer’s or supplier’s agreement. Licensee shall not distribute or sell Licensed Articles to any third-party that Licensee knows or should reasonably know intends or is likely to manufacture, advertise, distribute, or sell unlicensed products made with or from such Licensed Articles, whether as an enhancement, embellishment or otherwise. Licensee may not engage in “contract printing,” which shall be defined as the practice of embellishing with the Licensed Indicia product provided by Licensee’s customers or other third parties.

(vi) Premiums. Licensee shall not use any of the Licensed Articles as Premiums unless Licensee receives prior written authorization through CLC pursuant to a separate agreement with CLC. Licensee shall not provide Licensed Articles as Premiums to any third-party whom Licensee knows or should reasonably know intends to use the

Licensed Articles as Premiums. Nor shall Licensee: (1) manufacture, develop, sell, distribute, promote, or advertise any Licensed Articles in connection with lotteries, games of chance, firearms, sexually-oriented products, tobacco or alcoholic beverage products, or (2) provide Licensed Articles to any third-party whom Licensee knows or should reasonably know intends to manufacture, develop, sell, distribute, promote, or advertise any Licensed Articles in connection with lotteries, games of chance, firearms, sexually-oriented products, tobacco or alcoholic beverage products.

(vii) No Right to Sublicense, Assign or Transfer Rights. No right, express or implied, is granted to Licensee to sublicense, assign, or otherwise transfer the right to use the Licensed Indicia to third parties, and any such right is expressly withheld from this Agreement.

(viii) No Off-shore/Overseas Direct Shipments. Licensee shall not, without CLC's express written consent, engage in or permit the direct shipment of off-shore/overseas manufactured Licensed Articles to Distributors, wholesalers, retailers, etc. Licensees must take receipt of Licensed Articles at the applicable U.S. port of entry or at Licensee's distribution center located in the continental United States, unless otherwise pre-approved in writing by CLC.

(ix) No Right to Use a Student-Athlete's Name, Image, or Likeness. Licensee recognizes that current NCAA rules prohibit any person who is a Student-Athlete or otherwise has collegiate athletic eligibility from having his or her name, image, or likeness used for commercial purposes and Licensee recognizes that any person who is a former Student-Athlete cannot have his or her name, image, or likeness used for commercial purposes without the express written permission of such former Student-Athlete. Therefore, in conducting the licensed activity under this Agreement, Licensee shall not encourage, condone, or participate in any activity, or grant any rights, that would: (a) cause a Student-Athlete, former Student-Athlete, or Collegiate Institution to violate any rule of the NCAA or other governing body relating to the use of his or her name, image, or likeness for commercial purposes, or (b) violate or infringe upon the rights of any Student-Athlete or former Student-Athlete with respect to his or her name, image, or likeness. Moreover, Licensee acknowledges and agrees that no license or other right, permission, or consent is being granted hereunder to use the name, image, or likeness of any Student-Athlete or former Student-Athlete.

(x) No Fundraising or Charitable Efforts. Licensee shall not use any of the Licensed Articles in connection with any fundraising or charitable efforts unless Licensee receives prior written authorization through CLC. Licensee shall not provide Licensed Articles to any third-party whom Licensee knows or should reasonably know intends to use the Licensed Articles in connection with any fundraising or charitable efforts.

(xi) No Direct Mailing Solicitation. Licensee is not permitted, without the applicable Collegiate Institution's prior written authorization, to promote or market a Licensed Article by means of a direct mailing or any other direct solicitation to a list of alumni, students, parents, athletic contributors, faculty or staff, or other group associated with the Collegiate Institution, regardless of how Licensee acquires such list.

(c) Rights Reserved. Nothing in this Agreement shall be construed to prevent CLC or any Collegiate Institution from granting any other licenses or rights for the use of the Licensed Indicia. The Collegiate Institutions retain all rights to use and license their respective Licensed Indicia.

(d) Renewal. Upon expiration, if Licensee has complied with all terms and conditions of this Agreement during the preceding Term or annual contract period(s), Licensee shall be considered for renewal of this Agreement. Renewal is at the discretion of the individual Collegiate Institutions in consultation with CLC. Licensee recognizes and agrees that CLC and the Collegiate Institutions have no express or implied obligation to renew the Agreement. CLC and the Collegiate Institutions will have no liability to Licensee for any expenses incurred by Licensee in anticipation of any renewal of the Agreement.

### 3. CONSIDERATION.

(a) Rate. Licensee agrees that it shall pay to CLC the applicable royalty charges set forth adjacent to the respective Collegiate Institutions listed in **Appendix “C&D”**. For purposes of determining the Royalty Payments, sales shall be deemed to have been made when Licensed Articles are billed, invoiced, delivered, shipped, or paid for, or if the possession or title of the Licensed Articles has changed, whichever occurs first. Consignments or similar arrangements are not permitted without the express written consent of CLC.

(b) Advance Payments. Upon execution of this Agreement by Licensee, and on an annual basis, including renewal period, Licensee shall pay CLC, as a nonrefundable payment, the Advance Payments set forth in **Appendix “A”**. On an annual basis, including renewal, the Advance Payments will be prorated, where applicable, as per CLC’s written instructions. Licensee may apply the Advance Payments as credits against Royalty Payments and Minimum Guarantee payments (if applicable) due for the specific Collegiate Institutions, specific Licensed Articles and/or specific Distribution Channels, which credits shall expire no later than twenty (20) days after the expiration of the Term and any annual contract period(s), including renewal period.

(c) Minimum Guarantee. Licensee shall pay CLC the Minimum Guarantee amounts (if applicable) set forth in **Appendix “C&D”** by no later than twenty (20) days after the end of the Term and any annual contract period, including renewal period, unless specified otherwise in **Appendix “C&D”**. Such Minimum Guarantee amounts (if applicable) shall be offset by the amount of Royalties actually paid to CLC for such period, and not in addition to such payments.

(d) Administrative Fee. Upon execution of this Agreement by Licensee, and on an annual basis, including renewal period, Licensee shall pay CLC, as a non-refundable payment, the Administrative Fee set forth in **Appendix “A”**.

(e) Calculations and Closeouts. Royalty Payments shall be paid by Licensee to CLC on all Licensed Articles (including, without limitation, any seconds, irregulars, closeouts, liquidations, samples, etc. permitted pursuant to this Agreement) distributed or sold by Licensee or any of its affiliated or subsidiary companies even if not billed or if billed at less than the regular Net Sales price for such Licensed Articles. Royalty Payments on Licensed Article Closeouts cannot comprise more than five percent (5%) of the cumulative Royalties for Licensee’s total units sold for a particular annual contract period during the Agreement. Further, all Licensed Article Closeouts shall be: (1) based upon Licensee’s invoiced selling price, including the royalty amount, and (2) subject to Licensee first requesting and obtaining from CLC authorization to advertise, promote, sell, and/or distribute Licensed Articles in the “Off Price” Distribution Channel (OPC). To the extent that Licensed Articles distributed or sold by Licensee or any of its affiliated or subsidiary companies result in Royalty Payments on Licensed Article Closeouts exceeding the aforementioned five percent (5%) cap on cumulative Royalties for Licensee’s total units sold for a particular annual contract period, the Royalties on such excess shall be calculated at the regular Net Sales price for such Licensed Articles. Licensee may request CLC to authorize specific closeouts or liquidations that will cause Licensee to exceed the five percent (5%) threshold, and CLC, on behalf of the Collegiate Institutions, shall consider such requests on a case-by-case basis. Additionally, to the extent Licensed Articles being sold as part of a Licensed Article Closeout would require payment of a minimum royalty per unit (MRU), such MRU shall not be required for those permitted Licensed Article Closeouts.

(f) Distribution. In the event Licensee distributes or sells Licensed Articles at a special price directly or indirectly to itself, including without limitation, any affiliate or subsidiary of Licensee, to any other person, firm, or corporation related in any manner to Licensee or its officers, directors, or major stockholders, or through a Distributor (such



distribution arrangements being subject to prior written approval by CLC), Licensee shall pay royalties with respect to such distribution or sales based upon the regular Net Sales price for such Licensed Articles distributed or sold to the trade by Licensee (i.e. not based upon the special, reduced, or discounted price charged in such transaction(s)) or, if such regular Net Sales pricing is not available, as determined by CLC's evaluation of comparable prices charged the trade for similar products.

(g) **FOB Sales.** If a customer of Licensee proposes to purchase Licensed Articles "Free on Board" (FOB) the manufacturing source, or participates in other arrangements that would result in such customer paying less for the Licensed Articles than Licensee's regular selling price to the trade (e.g. drop-shipping), Licensee must receive prior written approval from CLC for such sales.

(h) **Multiple Royalties.** CLC recognizes that Licensee may be a party to other license agreements which, together with this Agreement, would subject certain Licensed Articles to one or more additional royalty payments above and beyond the Royalty Payments. Royalty Payments required to be paid to CLC for Licensed Articles may be reduced only by mutually agreed upon amounts set forth in writing.

(i) **Exempt Area.** On or around certain Collegiate Institution campuses, certain accounts or areas may be exempt from the obligation to pay Royalty Payments for sales made and delivered by Licensee to customers located within the exempt area. If, however, Licensee charges royalties for such sales (i.e. does not deduct the royalty amount from the price charged in such sales), then Royalty Payments are due and payable on such sales. Regardless of whether Licensed Articles are determined to be exempt from royalties, Licensee shall nevertheless remain obligated to track and report such sales, pursuant to **Section 4** below, for reporting and auditing purposes. **Appendix "B-1"** refers to those exemptions. CLC and the Collegiate Institutions reserve the right to add to or delete from **Appendix "B-1"**, and will notify Licensee of these changes in writing as provided in **Section 7(b)**. Licensee shall be responsible for obtaining and documenting confirmation from CLC or a Collegiate Institution licensing official that a particular account is exempt.

#### **4. ROYALTY STATEMENTS.**

(a) On or before the twentieth (20<sup>th</sup>) day of each month, Licensee shall submit to CLC, in a format provided or approved by CLC, a full and complete statement and payment, certified by an officer of the Licensee to be true and accurate, showing the quantity, description, and Net Sales (including itemization of any permitted deductions and/or exemptions) of the Licensed Articles distributed and/or sold during the preceding month, listed herein or as otherwise requested by CLC: (i) by month and year; (ii) by Collegiate Institution and CLC school code; (iii) by applicable Authorized Brand; (iv) by Licensed Article type (including subcategory); (v) retailer (retailer code, store #, street address, city, state, and zip code); (vi) by Unique Product Identifier (UPI) which is also included on artwork submissions; (vii) by units, sales, and per unit wholesale cost; and (viii) by invoice number and invoice date. Licensee shall provide historical sales data in the same format at CLC's request. The report shall also include any credit memoranda issued to customers for any returns actually made, and detailed information regarding any exemption issued as per **Section 3(i)** above. Credits must be reported and taken by Licensee within six (6) months following the date that the Licensed Articles are distributed and/or sold by Licensee to its customer. All Royalty Payments then due CLC shall be made simultaneously with the submission of the statements. If no sales, distribution, or use of the Licensed Articles were made during the reporting period, Licensee shall provide a "zero" report to CLC in the format required by CLC.

(b) Licensee shall pay CLC an additional charge of one and one-half percent (1.5%) per month, compounded on a monthly basis, or the maximum interest rate allowed by law, if lower, on any payment due under the Agreement that remains unpaid after such payment becomes due. Additionally, such payments shall be subject to the royalty rates in effect



for the Collegiate Institutions at the time that the unpaid amount is paid.

(c) CLC's receipt or acceptance of any statements or Royalty Payments, or the cashing of any royalty checks, shall not preclude CLC from questioning the correctness thereof at any time. Upon discovery of any verifiable inconsistency or mistake in such statements or payments, Licensee shall immediately rectify such inconsistency or mistake.

(d) Licensee shall, unless otherwise directed in writing by CLC, send all payments and statements to CLC at the address set forth in the heading of this Agreement, or transmit the same via electronic format approved by CLC.

## 5. **MARKETING EFFORTS / PERFORMANCE.**

(a) Marketing Efforts. Licensee recognizes that marketing efforts for Licensed Articles are important to the success of this program and Licensee, if requested, will assist CLC with such efforts by its participation.

(b) Performance. With respect to each of the Collegiate Institutions listed in **Appendix "A"**, Licensee shall manufacture, distribute, sell and maintain inventory of sufficient quantities of Licensed Articles to meet the reasonable market demand in the Distribution Channels.

## 6. **SELECTION OF COLLEGIATE INSTITUTIONS.**

Prior to execution of this Agreement, Licensee requested a license for certain Collegiate Institutions. **Appendix "A"** lists those Collegiate Institutions that have approved Licensee's request for a license. Licensee may from time-to-time request the addition of Collegiate Institutions to this Agreement, as provided in **Section 7(d)**.

## 7. **MODIFICATION OF APPENDICES.**

(a) The Collegiate Institutions listed in **Appendix "A"**, the Licensed Indicia referenced in **Appendix "B"**, the Collegiate Institution policies including those referenced in **Appendix "B-1"**, the Licensed Articles, Royalty Rates, Authorized Brands, and Distribution Channels indicated in **Appendix "C&D"**, and the CLC Code attached as **Appendix "E"** may be changed by CLC when and if such changes are directed by CLC and the respective Collegiate Institutions.

(b) Through periodic advisory bulletins or notices, including, without limitation, notification through online publications (e.g., Brand Manager 360) or via email, CLC will give Licensee written reasonable notice of any changes to appendices or policies. CLC shall give Licensee one hundred seventy-five (175) days written notice of any changes in Collegiate Institution royalty charges. Licensee, upon receipt of the bulletins or notices, is responsible for distributing them promptly to the appropriate party(s) and complying with the modified appendices and policies.

(c) Licensee recognizes and agrees that certain changes to the aforementioned Appendices may affect Licensee's rights regarding certain Collegiate Institutions, Licensed Indicia, Licensed Articles, Authorized Brands or Distribution Channels. Licensee agrees that such rights shall cease on the effective date of the notice of such changes, in accordance with the terms of the notice. In such event, those provisions of **Section 17** regarding disposal of inventory shall become effective for the affected Collegiate Institutions, Licensed Indicia, Licensed Articles, Authorized Brands or



Distribution Channels unless Licensee obtains written permission from the affected Collegiate Institutions concerned to continue to use the Licensed Indicia, or to manufacture, advertise, distribute or sell the Licensed Articles.

(d) Upon notification by CLC of the addition of a Collegiate Institution to the CLC program, or at any other time, Licensee may request in writing or through Brand Manager 360 the addition of Collegiate Institutions to the Agreement. Any such addition will require an addendum to **Appendix "A"**. Such addendum will be fully executed only upon Licensee's completion of product and design approval requirements, as provided in **Section 10**.

## **8. OWNERSHIP OF LICENSED INDICIA AND PROTECTION OF RIGHTS.**

(a) Licensee acknowledges and agrees that the respective Collegiate Institutions own each of their respective Licensed Indicia, modifications of the Licensed Indicia, as well as any other Licensed Indicia adopted for use by the Collegiate Institutions, that each of the Licensed Indicia is valid, and that each Collegiate Institution has the exclusive right to use each of its Licensed Indicia subject to the limited permission granted to Licensee to use the Licensed Indicia pursuant to this Agreement. Licensee acknowledges the validity of the state and federal registrations each Collegiate Institution owns, obtains or acquires for its Licensed Indicia. Licensee shall not, at any time, file any trademark application with the United States Patent and Trademark Office, or with any other governmental entity for the Licensed Indicia, regardless of whether such Licensed Indicia is referenced in **Appendix "B"**. Licensee shall not use any of the Licensed Indicia or any similar mark as, or as part of, a trademark, service mark, trade name, Uniform Resource Locator (URL), social media identity, fictitious name, company or corporate name anywhere in the world. Any trademark or service mark registration obtained or applied for that contains the Licensed Indicia or any similar mark shall be immediately transferred to the applicable Collegiate Institution without compensation.

(b) Licensee shall not oppose or seek to cancel or challenge, in any forum, including, but not limited to, the United States Patent and Trademark Office, any application or registration of the Licensed Indicia of any Collegiate Institution. Licensee shall not object to, or file any action or lawsuit because of, any use by the Collegiate Institutions of their Licensed Indicia for any goods or services, whether such use is by the Collegiate Institutions directly or through licensees or authorized users.

(c) Licensee recognizes the great value of the good will associated with the Licensed Indicia and acknowledges that such good will belongs to the Collegiate Institutions, and that such Licensed Indicia have inherent and/or acquired distinctiveness. Licensee shall not, during the term of this Agreement or thereafter, dispute or contest the property rights of the Collegiate Institutions, dispute or contest the validity of this Agreement, or use the Licensed Indicia or any similar mark in any manner other than as licensed hereunder. Licensee expressly waives any and all defenses relating to Licensee's use (whether licensed or unlicensed) of the Licensed Indicia or any similar mark, including without limitation any defenses arising under the First Amendment or under the doctrines of nominative fair use, descriptive fair use, acquiescence, or estoppel.

(d) Licensee agrees to assist CLC in the protection of the rights of the Collegiate Institutions in and to the Licensed Indicia and shall provide, at reasonable cost to be borne by CLC and/or the Collegiate Institutions, any evidence, documents, and testimony concerning the use by Licensee of the Licensed Indicia, which CLC may request for use in obtaining, defending, or enforcing rights in any Licensed Indicia or related application or registration. Licensee shall notify CLC in writing of any infringements by others of the Licensed Indicia of which it is aware. CLC and the applicable Collegiate Institution shall have the right to determine whether any action shall be taken on account of any such alleged infringements. Licensee shall not institute any suit or take any action on account of any such alleged infringements without first obtaining the written authorization of CLC and the Collegiate Institutions. Licensee agrees that it is not entitled to



share in any proceeds received by CLC or any Collegiate Institution (by settlement or otherwise) in connection with any formal or informal action brought by CLC, Collegiate Institutions or other entity.

(e) Nothing in this Agreement gives Licensee any right, title, or interest in the Licensed Indicia except the right to use the Licensed Indicia in accordance with the terms of this Agreement. Licensee's use of the Licensed Indicia shall inure to the benefit of the respective Collegiate Institutions.

(f) Acknowledgment. Licensee acknowledges that any and all Works created by it pursuant to this Agreement that contain the Licensed Indicia are "compilations" or "supplementary works" as those terms are used in Section 101 of the Copyright Act, and that the Works will be, and will be treated as having been, specially ordered or commissioned for use as a compilation or supplementary work rendered for, at the instigation and under the overall direction of the respective Collegiate Institutions; and therefore that all the work on and contributions to the Works by Licensee, as well as the Works themselves, are and at all times shall be regarded as "work made for hire" by the Licensee for the respective Collegiate Institutions. Without limiting the foregoing acknowledgment or subsequent assignment, Licensee further acknowledges that any rights that Licensee might have under this Agreement do not in any way dilute or affect the interests of the respective Collegiate Institutions in their Licensed Indicia or any derivatives thereof; nor permit Licensee to copy or use the Works or the Licensed Indicia, except as expressly permitted under this Agreement; nor to affix a copyright or trademark notice to any product bearing the Works or the Licensed Indicia, except as expressly permitted under this Agreement.

(g) Assignment. Without curtailing or limiting the foregoing acknowledgment, Licensee assigns, grants and delivers (and agrees further to assign, grant and deliver) exclusively to the respective Collegiate Institutions, all rights, titles and interests of every kind and nature whatsoever in and to the Works, and all copies and versions, including all copyrights and all renewals. Licensee further agrees to execute and deliver to CLC and the respective Collegiate Institutions such other and further instruments and documents as CLC or the particular Collegiate Institutions from time-to-time reasonably may request for the purpose of establishing, evidencing and enforcing or defending the complete, exclusive, perpetual and worldwide ownership by such respective Collegiate Institutions of all rights, titles and interests of every kind and nature whatsoever, including all copyrights, in and to the Works, and Licensee appoints CLC as agent and attorney-in-fact, with full power of substitution, to execute and deliver such documents or instruments as Licensee may fail or refuse promptly to execute and deliver, this power and agency being coupled with an interest and being irrevocable.

(h) Licensee acknowledges that its breach or threatened breach of this Agreement will result in immediate and irreparable damage to CLC and/or the Collegiate Institutions and that money damages alone would be inadequate to compensate CLC and/or the Collegiate Institutions. Therefore, in the event of a breach or threatened breach of this Agreement by Licensee, CLC and/or the affected Collegiate Institutions may, in addition to other remedies, immediately obtain and enforce injunctive relief prohibiting the breach or threatened breach or compelling specific performance. In the event of any breach or threatened breach of this Agreement by Licensee or infringement of any rights of the Collegiate Institutions, if CLC and/or the affected Collegiate Institutions employ attorneys or incur other expenses, Licensee shall reimburse CLC and/or the affected Collegiate Institutions for their reasonable attorneys' fees and other expenses.

## 9. DISPLAY AND APPROVAL OF LICENSED INDICIA.

(a) Licensee shall use the Licensed Indicia properly on all Licensed Articles, Packaging, and Advertising Materials. On all visible Packaging and Advertising Materials, the Licensed Indicia shall be emphasized in relation to surrounding material by using a distinctive typeface, color, underlining, or other technique approved by CLC and the Collegiate Institutions. Any use of any Licensed Indicia shall conform to the requirements as specified in **Appendix "B"**. Wherever appropriate, the Licensed Indicia shall be used as a proper adjective, and the common noun for the product shall



be used in conjunction with the Licensed Indicia. The proper symbol to identify the Licensed Indicia as a trademark (i.e., the ® symbol if the Licensed Indicia is registered in the United States Patent and Trademark Office or the ™ symbol if not so registered) and/or copyright legend (i.e., © [Date][Collegiate Institution]) shall be placed adjacent to each Licensed Indicia. Except when otherwise expressly authorized in writing by CLC, Licensee shall not use on any one Licensed Article or its Packaging the Licensed Indicia of more than one Collegiate Institution.

(b) CLC will provide to Licensee guidance on the proper use of the Licensed Indicia. A true representation or example of any proposed use by Licensee of any of the Licensed Indicia listed, in any visible or audible medium, and all proposed Licensed Articles, Packaging and Advertising Materials containing or referring to any Licensed Indicia, shall be submitted at Licensee's expense to CLC for written approval prior to such use, as provided in **Section 10**. Licensee shall not use any Licensed Indicia in any form or in any material disapproved or not approved by CLC.

(c) Licensee shall display on each Licensed Article or its Packaging and Advertising Materials the trademark and license notices required by CLC's written instructions in effect as of the date of manufacture.

## **10. PROCEDURE FOR APPROVAL.**

(a) Licensee understands and agrees that it is an essential condition of this Agreement to protect the standards and good reputations of the Collegiate Institutions, and agrees that the Licensed Articles, Packaging, Advertising Materials and/or designs containing the Licensed Indicia shall be of high and consistent quality, subject to the prior written approval and continuing supervision and control of CLC and the Collegiate Institutions. Licensee shall submit, upon CLC's request, all Licensed Articles, Packaging, Advertising Materials and/or designs containing the Licensed Indicia to CLC in a timely fashion to ensure that CLC and the Collegiate Institutions have adequate time to review such materials prior to the date of their proposed use by Licensee, and Licensee must receive prior written quality control approval by the applicable Collegiate Institution, or CLC on behalf of the applicable Collegiate Institution, as provided herein.

(b) Prior to the manufacture, use, distribution, or sale of any Licensed Article, Packaging, Advertising Materials and/or designs containing the Licensed Indicia, Licensee shall, upon CLC's request or upon Licensee's receipt of notice that an applicable Collegiate Institution has changed its Licensed Indicia, submit to CLC for approval, at Licensee's expense and in the format required by CLC, at least one sample of each proposed Licensed Article, Packaging, Advertising Materials and/or design for each Collegiate Institution and one sample for CLC as the same would be manufactured, used, distributed, or sold. If CLC notifies Licensee in writing of via Brand Manager 360 that the applicable Collegiate Institution has approved the proposed Licensed Article, Packaging, Advertising Materials and/or design, the same shall be accepted to serve as an example of quality for that Licensed Article, Packaging, Advertising Materials and/or design, and production quantities may be manufactured by Licensee in strict conformity with the approved sample. All approvals provided herein are effective only for the Term or renewal period in which Licensee has submitted and the applicable Collegiate Institution has approved the Licensed Articles, Packaging, Advertising Materials and/or designs, unless Licensee is otherwise notified in writing by CLC. Licensee shall not depart from the approved quality standards in any material respect without the prior written approval of the applicable Collegiate Institution or CLC on behalf of the applicable Collegiate Institution. Licensed Articles, Packaging, Advertising Materials and/or designs not meeting those standards, including seconds, irregulars, closeouts, liquidations, samples, etc., shall not be distributed or sold under any circumstances without CLC's prior written authorization.

(c) Licensee may only use the Licensed Indicia as referenced in **Appendix "B"** and approved in the manner set forth herein. Licensee may not modify the Licensed Indicia without the prior written approval of the applicable

Collegiate Institution, or CLC on behalf of the applicable Collegiate Institution, as provided in **Section 10(b)** above. The use of the Licensed Indicia in conjunction with original artwork supplied by the Licensee requires the express approval of the applicable Collegiate Institution, or CLC on behalf of the applicable Collegiate Institution, as provided in **Section 10(b)** above. Licensee may submit sketches of proposed artwork for preliminary approval before submitting finished samples.

(d) The descriptions of the Licensed Articles are set out in **Appendix “C&D”**. Licensee agrees to adhere strictly to the description of each Licensed Article.

(e) Upon request by CLC at any other time, or in addition to any other requirement, Licensee shall submit to CLC such number of each Licensed Article, Packaging, Advertising Materials and/or design manufactured, used, distributed or sold under the Licensed Indicia as may be necessary for CLC to examine and test to assure compliance with the quality and standards for Licensed Articles, Packaging, Advertising Materials and/or designs approved herein. Each item shall be shipped in its usual container or wrapper, together with all labels, tags, and other materials usually accompanying the item. Licensee shall bear the expense of manufacturing and shipping the required number of Licensed Articles, Packaging, Advertising Materials and/or designs to the destination(s) designated by CLC.

(f) If CLC notifies Licensee of any defect in any Licensed Article, Packaging, Advertising Materials and/or designs or of any deviation from the approved use of any of the Licensed Indicia, Licensee shall have fifteen (15) days from the date of notification from CLC to correct every noted defect or deviation. Defective Licensed Articles, Packaging, Advertising Materials and/or designs in Licensee’s inventory shall not be used, distributed or sold and shall, upon request by CLC, be immediately recalled from the marketplace and destroyed or submitted to CLC, at CLC’s option and at Licensee’s expense. However, if it is possible to correct all defects in the Licensed Articles, Packaging, Advertising Materials and/or designs in Licensee’s inventory, said items may be distributed or sold after all defects are corrected to the satisfaction of CLC, which shall be indicated in writing. CLC and/or its authorized representatives shall have the right at reasonable times without notice to inspect Licensee’s plants, warehouses, storage facilities and operations related to the production of Licensed Articles.

(g) Licensee shall comply with all applicable laws, regulations, standards and procedures relating or pertaining to the manufacture, use, advertising, distribution or sale of the Licensed Articles. Licensee shall comply with the requirements, including but not limited to reporting, product testing and labeling requirements, of any regulatory agencies (including, without limitation, the United States Consumer Product Safety Commission, Federal Trade Commission, or Food and Drug Administration) which shall have jurisdiction over the Licensed Articles. Both before and after Licensed Articles are put on the market, Licensee shall follow reasonable and proper procedures for testing Licensed Articles for compliance with laws, regulations, standards and procedures, and shall permit CLC and/or its authorized representatives, upon reasonable notice, to inspect its and its Manufacturer’s testing, manufacturing and quality control records, procedures and facilities and to test or sample Licensed Articles for compliance with this Section. Licensed Articles found by CLC or any applicable regulatory agency at any time not to comply with applicable laws, regulations, standards and procedures shall be deemed disapproved, even if previously approved by CLC, and shall not be shipped and/or shall be subject to recall unless and until Licensee can demonstrate to CLC’s satisfaction that such Licensed Articles have been brought into full compliance.

(h) Licensee shall inform CLC in writing of any complaint or claim regarding the Licensed Articles related to this Agreement promptly upon Licensee’s receipt of such complaint or claim, including without limitation consumer complaints and legal claims or allegations regarding Licensed Articles.

(i) Any unauthorized or unapproved use by Licensee of any Licensed Indicia of any Collegiate Institution shall constitute grounds for immediate termination of this Agreement and also may result in action against Licensee for trademark infringement and/or unfair competition, other applicable claims, and collection of monetary damages.

(j) In the event Licensee is approved to use Licensed Indicia in a URL, social media user name, etc., in connection with websites or other internet applications, Licensee shall ensure that such websites or internet applications do not tarnish, disparage, embarrass, or otherwise reflect unfavorably upon or detract from the goodwill of the Collegiate Institutions. Licensee further agrees that it is solely responsible for, and will defend, indemnify and hold harmless CLC, the Collegiate Institutions, and the other Indemnified Parties from any claims, demands, causes of action or damages, including reasonable attorneys' fees, arising out of the use, support, or registration of the URLs, user names, etc. This provision is in addition to and in no way limits **Section 18**. In the event that Licensee's rights to manufacture and distribute Licensed Articles bearing the Licensed Indicia of a Collegiate Institution expire or terminate, Licensee agrees to immediately cease use of the URL and/or user name (consistent with the terms of **Section 16**) and transfer to such Collegiate Institution, or relinquish the registration for, the relevant URL and/or user name.

## **11. DISPLAY OF OFFICIAL LABEL.**

(a) Licensee shall, prior to advertising, distribution or sale of any Licensed Article, affix an Official Label to each Licensed Article, its Packaging and Advertising Materials. In addition, Licensee shall affix Licensee's Authorized Brand(s) to each Licensed Article, its Packaging and Advertising Materials. It is acceptable for Licensee's Authorized Brand(s) to appear on the Official Label subject to prior written approval by CLC. Licensee shall obtain Official Labels from the supplier(s) authorized by CLC to provide those labels.

(b) Licensee and/or its authorized Manufacturers are responsible for affixing the Official Label to each Licensed Article, its Packaging and Advertising Materials. With the exception of authorized Manufacturers, Licensee shall not provide Official Labels to any third parties, including but not limited to Distributors and retailers, for any purpose whatsoever, without prior written approval by CLC.

(c) Licensee agrees to defend, indemnify and hold harmless CLC, the Collegiate Institutions, and the other Indemnified Parties from all liability claims, costs or damages, including but not limited to any liability for the conversion or seizure of any of the Licensed Articles not containing the Official Label and/or Licensee's Authorized Brand(s) as required by this Section. This provision is in addition to and in no way limits **Section 18**.

(d) Licensee's purchase and use of the Official Label is contingent upon the Licensee maintaining its rights under this Agreement. Upon termination or expiration of this Agreement, subject to those provisions of **Section 17** regarding disposal of inventory, Licensee must return all Official Labels to CLC for destruction. Licensee agrees that there will be no financial reimbursement to the Licensee by CLC, its agents, employees, or business partners for any unused Official Labels.

## **12. NO JOINT VENTURE OR ENDORSEMENT OF LICENSEE.**

Nothing in this Agreement shall be construed to place the Parties in the relationship of partners, joint venturers or agents, and Licensee shall have no power to obligate or bind CLC or any Collegiate Institution in any manner whatsoever. Neither CLC nor any Collegiate Institution is in any way a guarantor of the quality of any product produced by Licensee. Licensee shall neither state nor imply, directly or indirectly, that the Licensee or its activities, other than under this license,

are supported, endorsed or sponsored by CLC or by any Collegiate Institution and, upon the direction of CLC, shall issue express disclaimers to that effect. Notwithstanding anything in this Agreement to the contrary, with respect to and to the extent applicable to the United State Military Academy, Licensee shall not state or imply either directly or indirectly that Licensee or Licensee's activities, other than those specified in this Agreement, are supported, endorsed, or sponsored by CLC, the United States Military Academy, the Department of Army, or the Department of Defense. This Agreement does not constitute a partnership, joint venture, or franchise, and Licensee shall not use the name of CLC, the United States Military Academy, the Department of Army, or the Department of Defense in its business affairs other than in the performance of its rights and obligations under this Agreement. LICENSEE ACKNOWLEDGES AND AGREES THAT THERE ARE NO WARRANTIES, GUARANTIES, CONDITIONS, COVENANTS, OR REPRESENTATIONS BY CLC AS TO MARKETABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHER ATTRIBUTES, WHETHER EXPRESS OR IMPLIED (IN LAW OR IN FACT), ORAL OR WRITTEN.

### **13. REPRESENTATIONS, WARRANTIES, AND COVENANTS.**

(a) Representations, Warranties, and Covenants of Licensee. License represents, warrants, and covenants to CLC and the Collegiate Institutions that at all times during the Term:

(i) Licensee has the full right, power, and authority to enter into and act under this Agreement.

(ii) All Licensed Articles, Packaging, Advertising Materials and/or designs shall be of good quality in design, material, and workmanship and suitable for their intended purpose and shall not cause harm when used with ordinary care.

(iii) To the best of License's knowledge, all Licensed Articles, Packaging and/or Advertising Materials submitted for approval are not subject to any valid patent, copyright, non-Licensed Indicia trademark or any other proprietary rights of any non-consenting third-party. Neither CLC nor any Collegiate Institution shall be liable as a result of activities by Licensee under this Agreement for infringement of any patent, copyright, non-Licensed Indicia trademark or other proprietary right belonging to any third-party, or for damages or costs involved in any proceeding based upon any such infringement, or for any royalty or obligation incurred by Licensee because of any patent, copyright, non-Licensed Indicia trademark or other proprietary right belonging to any third-party.

(iv) Neither the Licensed Articles, Packaging, Advertising Materials (nor any part thereof), contains the name, image, or likeness of any Student-Athlete or former Student-Athlete (without such former Student-Athlete's express written consent) and that no such name, image, or likeness of any Student-Athlete or former Student-Athlete (without such former Student-Athlete's express written consent) shall be used, displayed, created, recreated, produced, reproduced or otherwise involved or associated with the design, development, marketing, promotion, advertisement, manufacture, production, sale, license, distribution, or other commercialization of the Licensed Articles, Packaging, and/or Advertising Materials.

(v) All work performed on and contribution to the Works shall be by bona fide "employees" of Licensee working "within the scope of employment" as those terms are used in 17 U.S.C. § 101, et. seq.

(vi) Licensee shall comply with such guidelines, policies, and requirements as CLC may give written notice from time-to-time including, without limitation, guidelines, policies, and/or requirements contained in periodic CLC bulletins or notices.

(vii) Licensee shall comply, and shall ensure that its Manufacturers, Distributors, and their respective affiliated entities comply, with the Code of Conduct with respect to any and all aspect of the design, development, marketing, promotion, advertisement, manufacture, production, sale, license, distribution or other commercialization of the Licensed Articles, Packaging, and/or Advertising Materials.

(viii) Licensee shall: (a) promptly notify CLC and the applicable Collegiate Institution(s) in the event Licensee determines or discovers that a violation of the Code of Conduct has occurred or if a government or regulatory body or the FLA or WRC notifies Licensee that such a violation has occurred, (b) take prompt action to expeditiously remedy such occurrence to the reasonable satisfaction of CLC and the Collegiate Institution(s), (c) keep CLC and the Collegiate Institution(s) apprised of the remediation process; and (d) notify CLC and the Collegiate Institution(s) upon completion of such remediation process.

(ix) Licensee shall obtain and maintain, at Licensee's expense, all permits and licenses applicable to the design, development, marketing, promotion, advertisement, manufacture, production, sale, license, distribution or other commercialization of the Licensed Articles, Packaging, and/or Advertising Materials as permitted under this Agreement.

(x) Licensee shall pay all federal, state, local, and international taxes, and other applicable taxes, fees, and assessments due on or by reason of its design, development, marketing, promotion, advertisement, manufacture, production, sale, license, distribution or other commercialization of the Licensed Articles, Packaging, and/or Advertising Materials as permitted under this Agreement.

(xi) Licensee has the full right, power, and authority to enter into and act under this Agreement.

(xii) With respect to and to the extent applicable to the United States Military Academy, Licensee shall not use the Licensed Indicia in any way that promotes or suggests discrimination based on race, color, national origin, gender, age, sexual orientation or disability; or promotes, supports, or endorses political activity, legislative change, ideological movements, religious beliefs, or specific interpretations of morality.

(b) Representations, Warranties, and Covenants of CLC and Collegiate Institutions. CLC and the Collegiate Institutions represent, warrant, and covenant to Licensee that:

(i) To the best of their knowledge, the Collegiate Institutions own and have the right to license the use of the Licensed Indicia as authorized herein.

(ii) CLC and the Collegiate Institutions have the full right, power, and authority to enter into and act under this Agreement and to grant the rights granted hereunder.

## 14. CODE OF CONDUCT.

(a) Code of Conduct, Generally. Licensee acknowledges that the Collegiate Institutions, to evidence their respective committed to conducting their business affairs in a socially responsible and ethical manner consistent with their respective educational, research and/or service missions, and to protecting and preserving the global environment, have adopted the following Code of Conduct regarding the design, development, sourcing, use, manufacture, production, sale, license, distribution, or other commercialization of the Licensed Articles, and have directed CLC to implement the Code of Conduct with Licensee as a condition of granting Licensee the rights licensed in this Agreement. Accordingly, Licensee agrees to operate workplaces and contract only with companies whose workplaces adhere to or exceed the standards and



practices described below. Licensee shall cooperate with CLC, the Collegiate Institutions, and/or their respective agents or representatives in periodic inspections of Licensee's and its Manufacturers' and suppliers' factory sites to ensure that Licensee and its Manufacturers and suppliers are in compliance with such Code of Conduct requirements. Licensee's failure to comply or ensure compliance with Code of Conduct requirements for a Collegiate Institution shall be considered a breach of the License Agreement regarding the applicable Collegiate Institution.

(i) Legal Compliance. Licensees must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the sign, development, sourcing, use, manufacture, production, sale, license, distribution, or other commercialization of Licensed Articles. Where there are differences or conflicts with the Code of Conduct and the laws of the country(ies) of manufacture, the higher standard shall prevail, subject to the following considerations. In countries where law or practice conflicts with these labor standards, Licensees agree to consult with governmental, human rights, labor, and business organizations and to take effective actions as evaluated by CLC, the applicable Collegiate Institution(s) or their designees, and Licensee to achieve the maximum possible compliance with each of these standards. Licensee further agrees to refrain from any actions that would diminish the protections of these labor standards. Collegiate Institution(s) may be affiliated with non-profit, third-party labor rights monitoring organizations, including, but not limited to, the FLA and WRC. Licensee agrees to incorporate the corresponding organization(s) affiliations and protocols as required by the Collegiate Institution(s). A Collegiate Institution may elect to change its monitoring organization affiliations during the Term, and Licensee shall agree to accommodate the changed affiliation status.

(ii) Employment Standards. Licensee shall comply with the following standards:

A. Wages and Benefits. Licensee recognizes that wages are essential to meeting employees' basic needs. Licensee shall pay employees, as a floor, at least the minimum wage required by local law or the local prevailing industry wage, whichever is higher, and shall provide legally mandated benefits.<sup>1</sup>

B. Working Hours. Except in extraordinary business circumstances, hourly and/or quota-based wage employees shall: (i) not be required to work more than the lesser of: (a) 48 hours per week and 12 hours overtime, or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country do not limit the hours of work, the regular work week in such country plus 12 hours overtime; and (ii) be entitled to at least one day off in every seven day period.

C. Overtime Compensation. In addition to their compensation for regular hours of work, hourly and/or quota-based wage employees shall be compensated for overtime hours at such a premium rate as is legally required in the country of manufacture or, in those countries where such laws do not exist, at a rate at least equal to their regular hourly compensation rate.

D. Child Labor. Licensee shall not employ any person at an age younger than 15 (or 14, where, consistent with International Labor Organization practices for developing countries, the law of the country of manufacture allows such exception). Where the age for completing compulsory education is higher than the standard for the minimum age of employment stated above, the higher age for completing compulsory education shall apply to this section. Licensee agrees to consult with governmental, human rights, and nongovernmental organizations, and to take reasonable steps as evaluated by CLC, the applicable Collegiate Institution(s) or their designees, and the Licensee to

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<sup>1</sup>CLC and the Collegiate Institutions will continue to monitor these issues and will promote studies that examine conditions and factors related to minimum and prevailing wages and employees' basic needs.

minimize the negative impact on children released from employment as a result of implementation or enforcement of the Code of Conduct.

E. Forced Labor. There shall not be any use of forced prison labor, indentured labor, bonded labor or other forced labor.

F. Health and Safety. Licensee shall provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of Licensee facilities.

G. Nondiscrimination. No person shall be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.

H. Harassment or Abuse. Every employee shall be treated with dignity and respect. No employee shall be subject to any physical, sexual, psychological, or verbal harassment or abuse. Licensee will not use or tolerate any form of corporal punishment.

I. Freedom of Association and Collective Bargaining. Licensee shall recognize and respect the right of employees to freedom of association and collective bargaining.

(iii) Full Public Disclosure. Licensee shall disclose to the Collegiate Institution(s) or their designee, including CLC, the location, factory name, contact name, address, phone number, e-mail address, products produced, and nature of business association, of each factory used in the production of all items that bear Licensed Indicia, including any additional disclosure information requested from time to time by the Collegiate Institution(s) or their designee, including CLC. Such information shall be updated upon any change to such disclosed information. CLC and/or the Collegiate Institution(s) reserve the right to disclose this information to third parties, without restriction as to its further distribution.

(iv) Women's Rights.

A. Women workers will receive equal remuneration, including benefits, equal treatment, equal evaluation of the quality of their work, and equal opportunity to fill all positions as male workers.

B. Pregnancy tests will not be a condition of employment, nor will they be demanded of employees.

C. Workers who take maternity leave will not face dismissal nor threat of dismissal, loss of seniority or deduction of wages, and will be able to return to their former employment at the same rate of pay and benefits.

D. Workers will not be forced or pressured to use contraception.

E. Workers will not be exposed to hazards, including glues and solvents, that may endanger their safety, including their reproductive health.

F. Licensees shall provide appropriate services and accommodations to women workers in connection with pregnancy.

(v) Fair Labor Association (FLA) Affiliation. Licensee shall comply in full with the affiliation

requirements of the FLA’s Collegiate Licensee Program. Incorporated in 1999, the FLA is a collaborative effort of socially responsible companies, colleges and universities, and civil society organizations to improve working conditions in factories around the world. The FLA has developed a Workplace Code of Conduct, based on International Labour Organization (ILO) standards, and created a practical monitoring, remediation and verification process to achieve those standards. The FLA is a brand accountability system that places the onus on companies to achieve the FLA’s labor standards in the factories manufacturing their products. Collegiate Institutions affiliated with the FLA seek to ensure that the licensees supplying their Licensed Articles manufacture or source those products from factories in which workers’ rights are protected. The FLA’s Collegiate Licensee Program and its requirements for affiliates are outlined at [www.fairlabor.org](http://www.fairlabor.org), and the FLA may be contacted at the following address: Fair Labor Association, 1111 19th St. NW, Suite 401, Washington, DC 20036, Phone: (202) 898-1000, Fax: (202) 898-9050.

(vi) Worker Rights Consortium (WRC) Cooperation. Licensee shall cooperate with the WRC. The WRC is an independent labor rights monitoring organization that conducts investigations of working conditions in factories on behalf of its affiliate Collegiate Institutions. The WRC conducts independent, in-depth labor rights investigations at factories producing Licensed Articles; issues reports of its findings to affiliate Collegiate Institutions and the public; and, where needed, aids workers to ensure that violations of Collegiate Institution codes of conduct are corrected. Collegiate Institutions that are affiliates of the WRC have agreed to the requirements for affiliation, found at [www.workersrights.org](http://www.workersrights.org). The WRC may be contacted at the following address: Worker Rights Consortium, 5 Thomas Circle NW, Fifth Floor, Washington, DC 20005, Phone: (202) 387-4884, Fax: (202) 387-3292.

(vii) Accord on Fire and Building Safety in Bangladesh Requirement. Licensees that source collegiate products in Bangladesh must sign the Accord on Fire and Building Safety in Bangladesh (“Accord”). Licensees must be identified among Accord signatories at [bangladeshaccord.org](http://bangladeshaccord.org) and provide written documentation to CLC and the Collegiate Institutions to this effect prior to sourcing collegiate product in Bangladesh. Licensees who have already signed the Accord must maintain their signatory status in the Accord if they intend to continue sourcing in Bangladesh and they must provide documentation to this effect to CLC and the Collegiate Institutions annually and upon request.

(b) Additional Code of Conduct Requirements for Specific Collegiate Institutions. Licensee further acknowledges that certain Collegiate Institutions have established particular code of conduct obligations in addition to or in lieu of certain Code of Conduct requirements. These Institution-Specific Code Requirements, if any, all of which are incorporated by reference into the Code of Conduct, are set forth on **Appendix “E”**.

## **15. RECORDS AND RIGHT TO AUDIT.**

(a) Licensee shall keep, maintain and preserve at its principal place of business during the Term, any renewal periods, and at least three (3) years following termination or expiration, complete and accurate books, accounts, records and other materials covering all transactions related to this Agreement in a manner such that the information contained in the statements referred to in **Section 4** can be readily determined including, without limitation, customer records, invoices, correspondence and banking, financial and other records in Licensee’s possession or under its control, and including specifically Licensee’s sales report, in comma separated value (CSV) format, submitted to CLC pursuant to **Section 4**. CLC and/or its authorized representatives shall have the right, at all times during the Term, any renewal periods, and the three (3) year period thereafter: (i) to inspect and audit all materials related to this Agreement and/or ancillary to the rights granted herein regarding any Collegiate Institution represented by CLC, which right to inspect and audit shall include the conduct of normal audit tests of additional Licensee records including those covering “non-licensed” sales to verify that they are not sales covered by this Agreement; and (ii) to validate that the Manufacturer(s) disclosed by Licensee to CLC for use by Licensee is/are the actual Manufacturer(s) used thereby, and that the information disclosed by Licensee to CLC regarding

such Manufacturers is accurate. In addition to the materials required by normal accounting practices, Licensee must retain details of Licensed Article sales to the invoice number level for audit purposes, and invoices must indicate the Collegiate Institution name beside each Licensed Article. Licensee will provide CLC and/or its authorized representatives the above-referenced invoice detail information in a format reasonably requested by CLC or its authorized representatives.

(b) Such materials, regardless of their date of creation, shall be available for inspection and audit (including photocopying) at any time during the Term, any renewal periods, and at least three (3) years following termination or expiration during reasonable business hours and upon at least five (5) days' notice by CLC and/or its representatives. Licensee will cooperate and will not cause or permit any interference with CLC and/or its representatives in the performance of their duties of inspection and audit. CLC and/or its representatives shall have free and full access to said materials for inspection and audit purposes. Licensee shall pay CLC the costs of the audit incurred by CLC due to a change in a scheduled audit date, which change is made at Licensee's request and approved by CLC. Additionally, if Licensee's books and records are not organized or are otherwise available for audit, then Licensee shall pay to CLC, as liquidated damages and not a penalty, an administrative fee equal to Five Thousand and No/100 Dollars (U.S. \$5,000) plus reimbursement of audit-related expenses actually incurred (e.g. travel, lodging, meals, etc.) of audit personnel.

(c) Following the conduct of the audit, Licensee shall take immediate steps to timely resolve all issues raised therein, including payment of any monies owing and due. Should an audit indicate either: (i) an underpayment of five percent (5%) or more, or (ii) an underpayment of Five Thousand and No/100 Dollars (U.S. \$5,000) or more (when including all accrued unpaid interest), of the monies due CLC, the cost of the audit shall be paid by Licensee. Payment of any audit costs is in addition to the full amount of any underpayment including late payment charges as provided in **Section 4(b)**. Without prejudice to the rights set forth in **Section 16** below, Licensee must cure any contract breaches discovered during the audit, provide amended reports if required, and submit the amount of any underpayment including late payment charges and, if applicable, the cost of the audit and/or cancellation fees within fifteen (15) days from the date Licensee is notified of the audit result.

(d) With respect to Licensed Articles that are exempt from Royalties pursuant to **Section 3(i)**, in the event that an audit shows an underreported sales amount of either: (i) two percent (2%) or more, or (ii) Two Thousand and No/100 Dollars (US \$2,000) or more for the applicable audit period, then the cost of the audit shall be paid by Licensee.

## **16. DEFAULT; CORRECTIVE ACTIONS; TERMINATION.**

(a) Licensee's failure to fully comply with each provision of the Agreement, including but not limited to Licensee's failure to perform as required or breach of any provision, shall be deemed a default under the Agreement. Upon default, CLC and the individual Collegiate Institutions may require the Licensee to take action to correct such default for such Collegiate Institutions. In the event that Licensee is required to take corrective action, CLC and the Collegiate Institutions shall determine the corrective action that Licensee will be required to take for such failure to perform or breach commensurate with the scope and history of Licensee's past performance. Such action may include, without limitation, requiring Licensee to adopt remedial accounting and reporting measures; requiring Licensee to conduct an internal audit; requiring Licensee to train its personnel or permitting CLC to assist therein at Licensee's expense; and requiring Licensee to discontinue the manufacture, advertising, distribution and sale of certain products bearing the Licensed Indicia. Additionally, in the event any default by Licensee results in damages to CLC or the Collegiate Institutions in an amount that would be difficult or impossible to ascertain (including, without limitation, sales of products bearing the Licensed Indicia that have not been approved pursuant to **Section 10**, sales of Licensed Articles without labeling as required in **Section 11**, etc.), then CLC and the Collegiate Institutions shall be entitled to receive compensation for damages in an amount to be determined by CLC in consultation with the Collegiate Institutions. The amount of such compensation payable

pursuant to this provision shall not be less than an amount equivalent to the greater of the Advance Payment or \$100, per occurrence, for each affected Collegiate Institution; provided, however, that nothing contained herein shall limit CLC's or the Collegiate Institutions' rights under this Agreement, in law, in equity or otherwise, including, without limitation, the amount of damages CLC or the Collegiate Institutions may be entitled to. If damages are assessed against the Licensee pursuant to this provision, then Licensee's ability to continue to operate under this Agreement shall be contingent upon payment of such damages in the time allowed by CLC and the Collegiate Institutions.

(b) In addition to the right to require corrective action for default as set forth in **Section 16(a)** above, CLC and the individual Collegiate Institutions shall have the right to terminate this Agreement without prejudice to any other rights under this Agreement, at law, in equity or otherwise, upon written notice to Licensee at any time should any of the following occur, which shall also be deemed defaults under the Agreement:

(i) Licensee has not begun the bona fide manufacture, distribution, and sale of Licensed Articles within ninety (90) days of the date of approval of the samples of Licensed Articles, unless such period is extended in writing by CLC.

(ii) Licensee fails to continue the bona fide manufacture, distribution, and sale of Licensed Articles during the Term. If, during any calendar quarter of the Term, Licensee fails to sell any of the Licensed Articles or fails to sell any Licensed Articles for a particular Collegiate Institution, CLC may terminate this Agreement with respect to said Licensed Article or Collegiate Institution.

(iii) Licensee fails to make any payment due or fails to deliver any required statement.

(iv) The amounts stated in the periodic statements furnished pursuant to **Section 4** are significantly or consistently understated.

(v) Licensee fails to generate royalties during the Term or any annual contract period(s), including renewal period(s), that meet or exceed the amount of the Advance Payments set forth on **Appendix "A"** and/or Minimum Guarantee amounts set forth on **Appendix "C&D"**.

(vi) Licensee fails to make available its premises, records or other business information for any audit or to resolve any issue raised in connection with any audit, as required in **Section 15**.

(vii) Licensee fails to pay its liabilities when due, or makes any assignment for the benefit of creditors, or files any petition under any federal or state bankruptcy statute, or is adjudicated bankrupt or insolvent, or if any receiver is appointed for its business or property, or if any trustee in bankruptcy shall be appointed under the laws of the United States government or the several states.

(viii) Licensee attempts to grant or grants a sublicense or attempts to assign or assigns any right or duty under this Agreement to any person or entity without the prior written authorization of CLC.

(ix) Licensee distributes or sells any Licensed Articles outside the Territory or distributes or sells any Licensed Articles to a third-party that Licensee knows or should reasonably know intends to distribute or sell such Licensed Articles outside the Territory.

(x) Licensee distributes or sells any Licensed Articles outside the authorized Distribution Channels for such Licensed Articles, or distributes or sells any Licensed Articles to any third-party that Licensee knows or should



reasonably know intends to distribute or sell such Licensed Articles outside the authorized Distribution Channels for such Licensed Articles.

(xi) If an entity acquires in a single transaction or through a series of transactions more than fifty percent (50%) ownership or controlling interest in Licensee.

(xii) Licensee or any related entity manufactures, distributes or sells any product infringing or diluting the trademark, property or any other right of any Collegiate Institution or any other party.

(xiii) Licensee fails to deliver to CLC and maintain in full force and effect the insurance referred to in **Section 18(b)**.

(xiv) CLC, a Collegiate Institution, or any governmental agency or court of competent jurisdiction finds that the Licensed Articles are defective in any way, manner or form.

(xv) Licensee violates the Code of Conduct or any monitoring requirements established by the applicable respective Collegiate Institutions and Licensee fails to effectively remediate said violation within a time period that is reasonable with respect to the nature and extent of the violation.

(xvi) Licensee commits any act or omission that damages or reflects unfavorably, embarrasses or otherwise detracts from the good reputation of any Collegiate Institution.

(xvii) Licensee manufactures, distributes or sells Licensed Articles of quality lower than the samples approved, or manufactures, distributes, sells or uses Licensed Articles or Licensed Indicia in a manner not approved or disapproved by CLC.

(xviii) Licensee fails to affix to each Licensed Article, its Packaging and Advertising Materials an Official Label in the manner provided in this Agreement.

(xix) Licensee commits a default under any other provision of this Agreement, and fails to cure such default within fifteen (15) days of written notice from CLC.

(c) CLC shall have the right to terminate this Agreement upon written notice to Licensee without cause with respect to a particular Collegiate Institution in the event that said Collegiate Institution directs CLC to terminate this Agreement, whether on an annual basis or otherwise. This termination shall be without prejudice to any other rights CLC may have, whether under the provisions of this Agreement, at law, in equity or otherwise.

**17. EFFECT OF EXPIRATION OR TERMINATION; DISPOSAL OF INVENTORY.**

(a) Effect of Expiration or Termination. After expiration or termination of this Agreement for any reason, Licensee shall immediately discontinue the manufacture, advertising, use, distribution and sale of all Licensed Articles, Packaging and Advertising Materials, the use of all Licensed Indicia, and all similar marks, except as provided in **Section 16(b)**, or unless expressly authorized in writing by CLC or the applicable Collegiate Institution. Until payment to CLC of any and all monies due it, CLC shall have a lien on any units of Licensed Articles not then disposed of by Licensee and on any monies due Licensee from any jobber, wholesaler, Distributor, or other third parties with respect to sales of Licensed Articles.

(b) Disposal of Inventory. After expiration or termination of this Agreement for any reason, except as otherwise set forth in this **Section 17(b)**, Licensee shall have no further right to manufacture, advertise, use, distribute or sell Licensed Articles, Packaging or Advertising Materials utilizing the Licensed Indicia, but may continue to distribute, in the normal course of business, its remaining inventory of Licensed Articles in existence at the time of expiration or termination for a period of sixty (60) days; provided, however, that Licensee has delivered all statements (including Final Statement) and payments then due, that during the disposal period Licensee shall deliver all statements and payments due in accordance with **Section 4**, that Licensed Articles are sold at Licensee's regular Net Sales price (i.e. no Closeouts) and within the Distribution Channels, and that Licensee shall comply with all other terms and conditions of this Agreement. Notwithstanding the foregoing, Licensee shall not manufacture, advertise, use, distribute or sell any Licensed Articles, Packaging or Advertising Materials after the expiration or termination of this Agreement because of: (i) departure of Licensee from the quality and style approved by CLC under this Agreement, (ii) failure of Licensee to obtain product or design approval, or (iii) a default under **Section 16**.

## **18. INDEMNIFICATION; INSURANCE; LIMITATION OF LIABILITY.**

(a) Indemnification. Licensee is solely responsible for, and will defend, indemnify and hold harmless the Indemnified Parties from any claims, demands, causes of action or damages, including reasonable attorneys' fees (except to the extent caused by the gross negligence of the Indemnified Parties), arising out of or relating to: (i) any unauthorized use of or infringement of any patent, copyright, trademark or other proprietary right of a third-party by Licensee in connection with the Licensed Articles, Packaging, Advertising Materials and/or designs covered by this Agreement; (ii) defects or alleged defects or deficiencies in said Licensed Articles, Packaging, Advertising Materials and/or designs or the use thereof; (iii) false advertising, fraud, misrepresentation or other claims related to the Licensed Articles, Packaging, Advertising Materials and/or designs not involving a claim of right to the Licensed Indicia; (iv) the unauthorized use of the Licensed Indicia or any breach or alleged breach by Licensee of any of its representations, warranties, covenants, or obligations contained in this Agreement; (v) libel or slander against, or invasion of the right of privacy, publicity or property of, or violation or misappropriation of any other right of any third-party; (vi) any use or alleged use of the name, image, or likeness of any Student-Athlete or former Student-Athlete (without such former Student-Athlete's express written consent) involved or associated with the design, development, marketing, promotion, advertisement, use, manufacture, production, sale, license, distribution or other commercialization of the Licensed Articles, Packaging, and/or Advertising Materials; (vii) personal injury, death, or damage to personal property resulting from the use or possession of the Licensed Articles, Packaging, Advertising Materials and/or designs; (viii) agreements or alleged agreements made or entered into by Licensee to effectuate the terms of this Agreement; and/or (ix) the negligent or intentional acts or omissions of Licensee or any of Licensee's officers, directors, agents, and employees. Licensee shall have no right to control any litigation arising under this section or to approve any settlement thereof. The indemnification obligations hereunder shall survive the expiration and termination of this Agreement.

(b) Insurance. Prior to the first sale or distribution of any Licensed Article, or use of the Licensed Indicia, Licensee shall obtain from an insurance carrier having a rating of at least A-7 by the A.M. Best & Co. or other rating satisfactory to CLC, and thereafter maintain, commercial general liability insurance, including product, advertising and contractual liability insurance. Licensee's insurance coverage shall provide adequate protection for the Indemnified Parties as additional insured parties on Licensee's policy against any claims, demands, or causes of action and damages, including reasonable attorneys' fees, arising out of or relating to any of the circumstances described in **Section 18(a)** above. All insurance shall be primary and not contributory with respect to any other insurance available to the Indemnified Parties. Such insurance policy shall not be canceled or materially changed in form without at least thirty (30) days' prior written notice to CLC. Prior to the first sale or distribution of any Licensed Article, or use of the Licensed Indicia, Licensee shall



furnish CLC a certificate of such insurance and endorsements in the form prescribed by CLC. Licensee agrees that such insurance policy or policies shall provide coverage of One Million and No/100 Dollars (U.S. \$1,000,000) for personal and advertising injury, bodily injury and property damage arising out of each occurrence, or Licensee's standard insurance policy limits, whichever is greater. However, recognizing that the aforesaid amounts may be inappropriate with regard to specific classes of goods, it is contemplated that CLC may require reasonable adjustment to the foregoing amounts. Any adjustment must be confirmed in writing by CLC.

**19. FINAL STATEMENT.**

Upon expiration or termination of this Agreement for any reason, or at any other time upon request by CLC or the Collegiate Institutions, Licensee shall furnish to CLC a Final Statement showing the number and description of Licensed Articles on hand or in process. Following such expiration or termination, including inventory disposal period, if allowed, CLC may request Licensee to either: (i) surrender unsold Licensed Articles, Packaging and Advertising Materials, as well as dies, molds and screens used to manufacture such Licensed Articles and Packaging, or (ii) destroy all such remaining unsold materials, certifying their destruction to CLC and specifying the number of each destroyed. CLC and/or its authorized representatives reserve the right to conduct physical inventories to ascertain or verify Licensee's compliance with the foregoing.

**20. SURVIVAL OF RIGHTS.**

The terms and conditions of this Agreement necessary to protect the rights and interests of the Collegiate Institution in its Licensed Indicia shall survive the expiration of this Agreement. Additionally, the terms and conditions of this Agreement that provide for any activity following the effective date of termination or expiration of this Agreement shall survive until such time as those terms and conditions have been fulfilled and satisfied.

**21. NOTICES.**

All notices and statements to be given and all payments to be made, shall be given or made to the Parties at their respective addresses set forth herein, unless notification of a change of address is given in writing. Unless otherwise provided in the Agreement, all notices shall be sent by certified mail, return receipt requested; facsimile, the receipt of which is confirmed by confirmation document; email, confirmed by email receipt confirmation notice; or nationally recognized overnight delivery service that provides evidence of delivery, and shall be deemed to have been given at the time they are sent.

**22. CONFIDENTIALITY.**

A Party receiving Confidential Information from another Party shall use the same degree of care it employs to maintain the confidentiality of its own Confidential Information, but no less than a reasonable degree of care, to keep in confidence all Confidential Information of the disclosing Party. The receiving Party shall use such Confidential Information solely in connection with the performance of this Agreement. The receiving Party shall not disclose the other Party's Confidential Information, except: (a) to such of its Affiliates or its (or its Affiliates') employees, agents, sublicensees, advisors and contractors who have a need to know such Confidential Information to implement the terms of or to provide advice or services in connection with this Agreement and who are bound by confidentiality obligations substantially similar





to those herein; (b) to any governmental authority who has a need to know in connection with a Party's obligations under this Agreement or other applicable regulatory requirement, or (c) in response to a public records request, subpoena, discovery request, or court order received by any of the Collegiate Institutions. The receiving Party will be liable to the disclosing Party for breach of this **Section 22** by any of the receiving Party's employees, agents, sublicensees, advisors and contractors. Notwithstanding the foregoing, nothing in this Agreement shall prevent or limit CLC's right or ability to share this Agreement (and details related hereto) with each Collegiate Institution.

### **23. SEVERABILITY.**

The determination that any provision of this Agreement is invalid or unenforceable shall not invalidate this Agreement, and the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

### **24. NON-ASSIGNABILITY.**

This Agreement is personal to Licensee. Neither this Agreement nor any of Licensee's rights shall be sold, transferred, or assigned by Licensee without CLC's prior written approval, nor may this Agreement be transferred or assigned to an entity that acquires in a single transaction or a series of transactions more than fifty percent (50%) of the ownership, control or assets of Licensee, nor shall any rights devolve by operation of law or otherwise upon any assignee, receiver, liquidator, trustee or other Party. Subject to the foregoing, this Agreement shall be binding upon any approved assignee or successor of Licensee and shall inure to the benefit of CLC, its successors and assigns. In the event that CLC permits any assignment or transfer of the Licensee's rights, CLC may charge the assignee or transferee a transfer processing fee in an amount no less than One Thousand and No/100 Dollars (U.S. \$1,000.00) in connection with such permitted assignment or transfer and not as a penalty. The amount of the transfer fee is based on the circumstances of the particular assignment or transfer, taking into account factors including but not limited to: the estimated value of the license being assigned or involved in the transfer; the risk of business interruption; the risk of loss of quality, production or control; the identity, reputation, creditworthiness, financial condition and business capabilities of the proposed assignee or entity involved in the transfer; and CLC's internal costs related to the assignment or transfer. This Agreement and CLC's rights hereunder shall automatically be assigned to the applicable Collegiate Institution upon termination or expiration of the underlying agreement between CLC and such Collegiate Institution providing for the grant of rights in such Collegiate Institution's Licensed Indicia to CLC, subject to the terms of such underlying agreement.

### **25. COLLEGIATE INSTITUTION RIGHT TO ENFORCE.**

Each Collegiate Institution is entitled to enforce its rights in the Licensed Indicia and the terms of this Agreement directly against the Licensee; and each Collegiate Institution is entitled to all the rights and remedies available under this Agreement as a third-party beneficiary.

### **26. MISCELLANEOUS.**

When necessary for appropriate meaning, a plural shall be deemed to be the singular and singular shall be deemed to be the plural. The attached appendices are an integral part of this Agreement. Section headings are for convenience only and shall not add to or detract from any of the terms or provisions of this Agreement. This Agreement has been negotiated and prepared by the Parties and their respective counsel, and should any provision of this Agreement require judicial



interpretation, the court interpreting or construing the provision shall not apply the rule of construction that a document is to be construed more strictly against one Party. Except as set forth below, this Agreement is governed by laws of the State of Georgia, without regard to its conflict of laws principles. For any legal action or proceeding arising out of or relating to this Agreement, the Parties expressly submit themselves to the jurisdiction of United States District Court for the Northern District of Georgia or to the federal or state district courts in which the Collegiate Institutions directly or indirectly enforcing their rights in Licensed Indicia or under this Agreement are located, at the sole discretion of the Collegiate Institutions and CLC (as agent on behalf of the Collegiate Institutions). Notwithstanding anything herein to the contrary, to the extent applicable to the United States Military Academy: (a) all rights granted to Licensee by CLC under this Agreement are granted under the authority of the United States Military Academy, as the United States Military Academy is the sole rights holder and licensor of its Licensed Indicia, and (b) this Agreement shall be governed by and construed in accordance with the laws of the UNITED STATES, which shall be the sole jurisdiction for any disputes. The Licensee expressly agrees to the exercise of such discretion, and the Parties otherwise expressly waive their right to be heard in any other forum. This Agreement, made and entered into in Georgia, shall not be binding on CLC until signed by CLC as agent on behalf of the Collegiate Institutions.

**27. ENTIRE AGREEMENT; WAIVER.**

Unless otherwise specified herein, this Agreement or any renewal, including appendices, exhibits, and attachments, constitutes the entire agreement and understanding between the Parties relating to the subject matter hereof and cancels, terminates, and supersedes any prior agreement or understanding, written or oral, relating to the subject matter hereof between the Parties. There are no representations, promises, agreements, warranties, covenants or understandings relating to the subject matter hereof other than those contained herein. None of the provisions of this Agreement may be waived or modified, except expressly in writing signed by both Parties, as may be adjusted from time to time through Brand Manager 360, or as otherwise permitted herein. However, failure of either Party to require the performance of any term in this Agreement or the waiver by either Party of any breach shall not prevent subsequent enforcement of such term nor be deemed a waiver of any subsequent breach.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed effective as of the last date of signature below. Signatures transmitted electronically by portable document format (pdf) file or facsimile shall be binding for all purposes hereof.

«Company»

Collegiate Licensing Company, LLC as agent on behalf of the Collegiate Institutions

Signature: {{\_es\_:signer1:signature }}  
Print: {{N\_es\_:signer1:fullname }}  
Title: {{\_es\_:signer1:title }}  
Date: {{\_es\_:signer1:date }}

Signature: {{\_es\_:signer4:signature }}  
Print: {{N\_es\_:signer4:fullname }}  
Title: SVP  
Date: {{\_es\_:signer4:date }}



**APPENDIX "A"**

**Collegiate Institutions**

**Licensee: «Company»**

University	Royalty Rate* (see Appendix C&D)	Product Category (see Appendix C&D)	Advance Fee
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**Administrative Fee: \$Admin Fee**

**Total Due: \$**

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**For Internal Use Only (Standard Retail Product License Agreement)**

**Account #«Account»** Check # \_\_\_\_\_ Date: \_\_\_\_\_  
Amount \$ \_\_\_\_\_ Class: ADMIN

Check # \_\_\_\_\_ Date  
Amount \$ \_\_\_\_\_ Class



## APPENDIX “B”

### **Licensed Indicia**

Licensee is responsible for using the correct Licensed Indicia, as modified from time to time by the respective Collegiate Institutions. All designs containing the Licensed Indicia must be submitted through Brand Manager 360 and approved by the specific Collegiate Institution prior to production, distribution, and/or sale.

The **Appendix “B”** for each Collegiate Institution is shown through Logos on Demand. To view, Licensee shall log on to the site ([www.jpattonondemand.com/CLC](http://www.jpattonondemand.com/CLC)), and then select Institutions. Once there, Licensee will select the specific Collegiate Institution, and then download the **Appendix “B”/Style Guide** in the format of Licensee’s choosing.

Each **Appendix “B”** and the Licensed Indicia included therein, as they may be modified from time to time, are a part of the Agreement and incorporated herein by reference.

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## APPENDIX “B-1”

### **Royalty Exemption Policies**

Licensee shall review an updated copy of the current royalty exemption policies for each Collegiate Institution via Brand Manager 360 under “*Resources*”, “*Institution Information*”, and then “*University Exemption Policies.*” This document is updated at the beginning of each calendar quarter. Licensee is advised to remain current on exemption policies. The **Appendix “B-1”** document on Brand Manager 360, as updated from time to time, is a part of the Agreement and incorporated herein by reference.

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**APPENDIX “C&D”**

**Rights Matrix**

Licensee is responsible for referencing and reviewing approved rights in Brand Manager 360 prior to signing this Agreement. The Rights Matrix for this Agreement includes the approved Product Category, Royalty rate, and Distribution Channel combinations for the requested Collegiate Institution(s). These rights are currently available in Brand Manager 360 under the tab “*License Management - Addenda Rights*”. Once this Agreement is finalized, you may view all of your approved rights under the reports tab - “*My Approved Rights (Appendix C&D)*”.

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## APPENDIX “E”

### **Institution-Specific Code Requirements**

The Institution-Specific Code Requirements for each Collegiate Institution granting rights to Licensee under this Agreement is located on Brand Manager 360 under “*Resources*” and then under “*Corporate Responsibility*”. Licensee is advised to remain current on all applicable code requirements. The **Appendix “E”** document on Brand Manager 360, as updated from time to time, is a part of the Agreement and incorporated herein by reference.

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